



April 9, 2010

Dr. John W. Mills, President
Paul Smith's College of Arts & Sciences
Route 86 & 30
P. O. Box 265
Paul Smiths, NY 12970

Sent Via Federal Express
7985 5409 1187
OPE-ID: 00279500

Dear Dr. Mills:


This letter is to inform you that the U.S. Department of Education (Department) intends to fine Paul Smith's College of Arts & Sciences (PSC) \$260,000, based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Secretary of Education (Secretary) has established for assessing fines against institutions participating in any or all of the programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* (Title IV, HEA programs). Under the Department's regulations, the Department may impose a fine of up to \$27,500 for each violation. 34 C.F.R. § 668.84. As detailed below, this fine action is based on PSC's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f) and the Department's regulations in 34 C.F.R. §§ 668.41 and 668.46.

Under the Clery Act, institutions participating in the Title IV, HEA programs must prepare, publish and distribute an Annual Security Report (ASR) by October 1 of each year. 34 C.F.R. § 668.41(e). In addition, institutions must submit crime statistics annually to the Department for the three most recent calendar years concerning the occurrence on campus, in or on non-campus buildings or property, and on public property of certain crimes reported to local police agencies or to a campus security authority. 34 C.F.R. § 668.41(e)(5); 34 C.F.R. § 668.46(c). The ASR must include the statistics submitted to the Department and contain a description of the institution's campus security policies in specific areas. 34 C.F.R. § 668.46(b).

On July 14, 2006, the Department received an inquiry from the office of U.S. Senator Christopher Dodd concerning PSC's compliance with the Department's Drug and

Administrative Actions and Appeals Division
830 First Street, NE | Union Center Plaza III | Washington, DC 20002-8019

www.federalstudentaid.ed.gov
1-800-4-FED-AID

FEDERAL STUDENT AID  START HERE. GO FURTHER.

Alcohol Abuse Prevention regulations (34 C.F.R. Part 86). The inquiry noted that there might be discrepant information contained in the police reports surrounding an incident at PSC on February 6, 2005.

According to a New York State Police report filed on February 6, 2005, a PSC student and a visitor to the campus were killed when a snowmobile they were riding hit a lean-to constructed on an outcropping of land on Lower St. Regis Lake known as "Peter's Rock." The incident occurred while both individuals were attending a PSC student-organized party and bonfire on the Lower St. Regis Lake, which was frozen. Police reports indicate that alcohol was a contributing factor in the deaths. The autopsy reports indicate that both were killed instantly as a result of multiple blunt force traumas and the driver of the snowmobile, age 20, had a blood alcohol content of .14 percent.¹ On Monday, February 7, 2005, another PSC student was arrested for providing the driver of the snowmobile with alcohol.

Based on the information it received on this incident, the Department decided to conduct a program review at PSC. That review took place from May 14-18 and July 9-13, 2007 and examined PSC's compliance with the Clery Act. The initial focus of the review was to examine PSC's alcohol violation disciplinary process. The review was expanded, however, to include assessment of the accuracy and completeness of campus crime statistics reported by PSC and its compliance with the campus crime policy disclosure requirements of the Clery Act. On March 4, 2008, the Department issued a Program Review Report to PSC, which included the review team's findings that PSC had not complied with the Clery Act and with the Department's implementing regulations. On June 5, 2008, the Department received PSC's response in which PSC stated that it concurred with the findings of the Program Review Report. PSC also submitted documents to show its attempts to correct the findings identified in the report. The Department issued its Final Program Review Determination (FPRD) letter to PSC on November 7, 2008. The FPRD is incorporated by reference into this notice. (Enclosure 1).

The Department is taking this fine action based on the findings in the FPRD, which concluded that PSC: failed to report accurate and complete statistics on the occurrence of certain crimes on campus, on non-campus buildings or property, and on public property for the calendar years 2004, 2005, and 2006; failed to accurately report required crime statistics for the calendar years 2004, 2005, and 2006; lacked administrative capability; failed to include certain campus crime policy statements in the ASR's for the calendar years 2004, 2005, and 2006; failed to distribute the ASR as required for the calendar years 2004, 2005, and 2006; and failed to properly maintain a campus crime log. Based on these violations of the Clery Act and the Department's regulations, the imposition of a fine is warranted. 34 C.F.R. § 668.84(a).

¹ New York has a Zero Tolerance law that applies to a person under age 21 who operates a motor vehicle with a blood alcohol concentration (BAC) of .02% or more but not more than .07%.

FAILURE TO DEFINE THE CAMPUS AND DISCLOSE CRIME STATISTICS FOR ALL LOCATIONS

Institutions participating in the Title IV, HEA programs must disclose crime statistics for the three most recent calendar years by geographic location. 34 C.F.R. § 668.46(c).

Disclosure must be accomplished according to the following definitions in the Clery Act and the Department's regulations.

Campus: (1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and (2) any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

Noncampus Building or Property: (1) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or (2) any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

Public Property: All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

34 C.F.R. § 668.46(a).

To properly report campus crime statistics, an institution must define these separate areas in accordance with these definitions. For the 2004, 2005, and 2006 calendar years, PSC failed to define its campus in accordance with the definition contained in the Department's regulations.

PSC owns 14,200 acres of land in the North Country of New York State, which includes property subject to easements granted for the Adirondack National Park. PSC owns the easement land and is compensated by the state for usage rights. Not all the acreage meets the definition of campus because it is not used by PSC in direct support of, or in a manner related to, PSC's educational purposes. However, substantial parts of the property which meet the definition of campus in 34 C.F.R. § 668.46(a) have been improperly excluded by the institution in recording Clery Act statistics. PSC offers programs in fields like forestry, surveying, and natural resource management and uses the easement land in support of its educational purposes. Moreover, in its recruiting material, PSC emphasizes that it focuses on "experiential learning" and states that "our 14,200-acre campus is the ideal setting for training students in outdoor careers." Similarly, another publication describes "14,200 Acre Campus: Just imagine a campus situated at the edge of a pristine

lake, surrounded by the spectacular Adirondack Mountains . . . With 14,200 acres to explore, to play, to breathe and to grow, Paul Smith's living laboratory provides the freedom to create the life of your dreams." Parents, students, and others are led to believe that the campus covers a large tract of land. Thus, PSC includes the 14,200 acres of land in the description of the campus it provides to students and potential students and their families.

For Clery Act purposes, however, PSC defined its campus, for the 2004, 2005, and 2006 calendar years, as including only a very small part of the 14,200 acres of land, essentially the portion of the property immediately bordering the Lower St. Regis Lake. That definition only included the land adjoining PSC's 10 administrative and classroom buildings, 12 dormitories, and parking areas. PSC's campus safety officers have limited their routine patrols to this area.

In response to the Program Review Report, PSC conceded that the institution's "descriptions of what constituted its campus had been inconsistent and unclear." According to PSC, it has reexamined its property holdings, applied the definition of campus required by the Clery Act, and reclassified property. The reclassified campus property and buildings consisted of the lakefront academic, administrative, and residential buildings, including the Sugerbush and the Saranac Lake residence halls. The campus includes 12,128 acres, including 7,760 acres of property subject to easements managed by the New York State Department of Environmental Conservation (NYSDEC). Reclassified non-campus property and buildings consists of 988 acres located in the towns of St. Armand and Franklin. The reclassified boundary for adjacent public property extends outward for a one-mile radius from the land defined as the campus.

Because PSC failed to define its campus to include all property that it owned or controlled and used for educational purposes, it failed to disclose complete and accurate crime statistics for that property and failed to disclose the statistics by geographic location. In response to the Program Review Report, PSC agreed that, for the 2004, 2005, and 2006 calendar years, it failed to disclose accurate and complete crime statistics by geographic location.

In addition, because PSC failed to include the 7,760 acres of property subject to easements managed by NYSDEC in its campus definition for the 2004, 2005, and 2006 calendar years, it failed to make the required "reasonable, good faith effort" to obtain the required statistics from police agencies that had jurisdiction over the property subject to the easements. In response to the program review, PSC entered into an agreement with the NYSDEC to improve oversight patrols and restrict the use of the property.

Correction of the violations does not diminish the seriousness of failing to classify property accurately during the reporting years and, thus, failing to disclose crime statistics from all locations to students, employees, potential students and employees and the Department. PSC's consistent and repeated failure to collect and report crime

statistics for crimes occurring during the 2004, 2005 and 2006 calendar years violated the Clery Act and the Department's regulations.

FAILURE TO DISCLOSE ACCURATE AND COMPLETE CRIME STATISTICS

Under the Clery Act and the Department's regulations, institutions participating in the Title IV, HEA programs must report crime statistics for the three most recent calendar years for certain crimes that occur on campus, in or on non-campus buildings or property, and on public property. Institutions must report on the number of the following crimes that are reported to local police agencies or to a campus security authority: criminal homicide (murder and manslaughter); sex offenses (forcible and non-forcible); robbery; aggravated assault; burglary; motor vehicle theft; and arson. In addition, institutions must report the number of arrests for liquor law violations, drug law violations and illegal weapons possession. An institution must also report statistics for persons not included in arrest statistics who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession. An institution must also specifically report on any crime that manifests evidence of a hate crime. 34 C.F.R. § 668.46(c). The statistical reporting must be disclosed to students and employees and made available as part of the institution's ASR by October 1 of each year and it must be electronically submitted to the Department for inclusion on the Campus Crime and Security Website. The Department has established timeframes within which institutions must electronically submit the information. 34 C.F.R. § 668.41(e)(1)-(e)(5).

The Department determined that, for the 2004, 2005, and 2006 calendar years, PSC failed to comply with the Clery Act statistical reporting requirements. As described in the FPRD, the review team reviewed original source documents at PSC and identified additional crimes that were not included in the statistics disclosed by PSC. The chart below shows the crimes and disciplinary referral statistics reported by PSC for the 2004 and 2005 calendar years and the correct statistics calculated by the Department based on PSC's campus security records.

Crime Classification	PSC Reported 2004	Department Determination 2004	PSC Reported 2005	Department Determination 2005
Manslaughter	0	0	0	1
Forcible Sex Offenses	0	1	0	2
Aggravated Assault	0	0	1	4
Burglary	1	8	2	15
Arson	0	3	0	1
Totals	1	12	3	23

Disciplinary Referrals	PSC Reported 2004	Department Determination 2004	PSC Reported 2005	Department Determination 2005
Weapons Possession	0	5	0	6
Drug Law Violations	3	7	4	19
Liquor Law Violations (LLV)	47	71	72	51 ²

In summary, the review team determined that PSC's statistics failed to include 11 crimes and 24 disciplinary referrals in 2004 and 20 crimes in 2005.

PSC conducted a self-study to correct the crime statistics reported for the review period. The results of the self-study further demonstrate that PSC did not accurately report the number of serious crimes on campus to its students, employees and the Department. For example, the self-study identified 13 crimes in 2004, although PSC had reported only one. For 2005, the self-study identified 19 crimes, although PSC had reported only 3. The FPRD included additional crimes identified by the review team and not identified initially by PSC or in its self-study. PSC reported incorrect crime statistics to students, employees and the Department. Those statistics failed to accurately reflect the number of crimes on campus during the review period, and PSC significantly underreported its crime statistics and disciplinary referrals for the review period.

PSC accepted the findings of the Program Review Report and acknowledged that it failed to properly disclose campus crime statistics for the review period. In fact, PSC failed to provide correct statistics for 2004, 2005 and 2006 to its students and employees and to the Department until 2007, after the Department notified PSC of the violation. Although PSC has taken steps since that time to correct its data collection process and correct the inaccurate crime data it previously provided to students, employees, and the public, those efforts do not diminish PSC's failure to provide accurate and complete crime information to students, employees and the Department during the review period. PSC's consistent and repeated failure to collect and report crime statistics for crimes occurring during the 2004, 2005 and 2006 calendar years violated the Clery Act and the Department's regulatory requirements.

² After the events of February 2005, PSC modified its policies and procedures to increase the involvement of the New York State Police (NYSP) in LLV cases. To reduce the possibility of double-counting of LLV cases, the Department excluded referrals when the incident report mentioned the involvement of the NYSP. Thus, the total number of LLV violations in 2005 determined by the Department is lower than PSC reported.

LACK OF ADMINISTRATIVE CAPABILITY

The Department's regulations require that for an institution of higher education to participate in the Title IV, HEA programs, the institution must be capable of adequately administering the Title IV programs in accordance with all applicable statutory and regulatory provisions. 34 C.F.R. § 668.16. In accordance with the standards, institutions must use an adequate number of qualified persons to administer the Title IV, HEA programs, and administer those programs with adequate checks and balances in its system of internal controls. The FPRD indicates that PSC violated the requirements of the Clery Act and the Department's regulations. See 34 C.F.R. §§ 668.41, 668.46. These violations demonstrate that PSC lacked administrative capability as required by the regulations.

In particular, PSC failed to use an adequate number of qualified persons to insure compliance with the Clery Act. Findings from the FPRD indicate a lack of adequate institutional training that contributed to the occurrence of violations. Specifically, during the period under review, PSC failed to appoint a qualified official with sufficient authority and training to be in charge of Clery Act compliance. In addition, PSC failed to provide Clery Act training for relevant staff, including security officers, and failed to provide training on proper incident report writing techniques for Student Affairs/Residence Life staff.

Moreover, Title IV programs must be administered within an adequate system of internal controls. To compile and publish accurate and complete statistics, institutions must have a system for the collection of incidents of crime reported to campus security authorities. 34 C.F.R. § 668.46(c). Findings from the FPRD demonstrate that PSC failed to establish a system that ensured standardization, custody, and control of important records needed to comply and document compliance with the Clery Act. For example, 403 campus disciplinary files were not included initially among documents provided in response to a request by the program review team. 34 C.F.R. § 668.16(d).

During the review period, PSC had no standardized report writing, coding, or control numbering systems for campus crimes. Thus, numerous accounts of the same incident were frequently generated that could not be cross-referenced easily or otherwise linked to prevent contradictory accounts and duplicate counting. For example, for 15 burglaries that should have been reported during 2005, incident reports used inconsistent crime classifications. Report formats failed to capture all students present at an incident or to document dates of birth for incidents of underage drinking.

PSC's campus security office was not always notified of incidents and provided incident reports for timely investigation to determine if a reportable crime had occurred. In some cases, no information was provided to the campus security office and, in other cases, reports provided only detailed violations of institutional policy and failed to document the relevant facts to determine if a violation of law had occurred. For example, PSC policies required that sexual assault incidents on campus property be reported to the campus

security office and, if the victim chose, to the police. In 2006, however, a forcible sex offense occurred in a hotel dormitory owned by PSC. The incident was reported to a resident assistant who reported it to the chief student affairs officer. Meanwhile, two head resident advisors interviewed the suspect at the dormitory. Campus security was not notified for 72 hours, however, and it is unclear when PSC notified the police department. PSC incident records indicate that a 2004 incident involved the same perpetrator and a different unreported victim. Ultimately, PSC officials failed to report the 2006 incident for Clery Act purposes because the district attorney had insufficient evidence to prosecute and PSC doubted the credibility of the victim, even though these grounds are not a basis for excluding a reported crime from Clery Act statistics.

PSC's continued failure to understand the requirements of the Clery Act endangered the entire campus community, and the numerous violations of the Clery Act indicate a lack of administrative capability.

LACK OF ADEQUATE POLICY STATEMENTS

Under the Clery Act and the Department's regulations, the ASR must include a description of the institution's campus security policies in specific areas. The description must include a statement of current campus policies to more fully inform the campus community of the institution's security policies and programs and the availability of resources and channels of recourse. In general, the policies that must be described cover topics like the law enforcement authority and practices of the institution's police or security force, reporting procedures for students and employees, and the policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. 34 C.F.R. § 668.46(b).

The FPRD concluded that PSC's ASR failed to describe the institution's policies in a number of required areas. Specifically, PSC's policy statement disclosing how it completes and prepares campus crime statistics was incomplete and inadequate. The statement failed to describe the institution's policies and procedures for gathering and compiling incidents of crime reported to internal and external campus security authorities and failed to address access, communication, and coordination by institutional officials. For example, the separation of enforcement authority between the Office of Campus Safety and the Office of Student Affairs/Residence Life was not clearly defined in terms of institutional policy or practice. Institutional officials and students interviewed during the site visit expressed frustration regarding the ill-defined roles of those offices.

PSC has accepted the findings of the Program Review Report and acknowledged that it lacked adequate policy statements for the review period. Although PSC has addressed the missing or inaccurate policy statements, those efforts do not diminish PSC's failure to provide adequate policy statements for the review period. PSC's consistent and repeated failure to include adequate policy statements in the ASR for the 2004, 2005 and 2006 calendar years violated the Clery Act and the Department's regulations.

FAILURE TO DISTRIBUTE THE ANNUAL SECURITY REPORT AS REQUIRED BY THE DEPARTMENT'S REGULATIONS

The Clery Act requires that participating institutions distribute the ASR to current students and employees through appropriate publications or mailings and notify prospective students and employees that it is available, a description of its contents, and an opportunity to request a copy. 34 C.F.R. § 668.41(e)(1)-(3). Institutions must also provide a copy, upon request, to prospective students or employees. 34 C.F.R. § 668.41(e)(4). Distribution may include direct mailing through the U.S. Postal Service, direct hand or campus-mail distribution, or posting on the institution's internet website. If distribution is made by posting to an internet or intranet website, by October 1 of each year, the institution must distribute a notice to all students and employees, including a statement that the report is available, its electronic address, a description of its contents, and a notice that a paper copy is available upon request. 34 C.F.R. § 668.41(e).

The FPRD found that PSC had failed to distribute its ASR to all current students and employees and did not adequately inform prospective students and employees of its availability. The review team examined publications provided to current and prospective students and employees by PSC and interviewed PSC officials. The Department determined that PSC could not adequately explain how the ASR was distributed or to provide documentation that the required distribution was undertaken. The review team learned that PSC did not directly provide a copy of the report to anyone. Statistical disclosures included in the 2006 ASR were available on the PSC website. However, the complete report was not.

PSC accepted the findings of the Program Review Report and acknowledged that it failed to distribute the ASR in accordance with federal law for the review period. PSC's failure to distribute the ASR for the 2004, 2005, and 2006 calendar years violated the Clery Act and the Department's regulations.

FAILURE TO MAINTAIN A DAILY CRIME LOG

The Clery Act and the Department's regulations require an institution that maintains a campus police or a campus security department to maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a non-campus building or property, on public property or within the patrol jurisdiction of the campus police or the campus security department, and is reported to them. The crime log must include the nature, date, time and general location of each crime, as well as the disposition of the complaint, if known. The entries and updates must be completed within two business days unless an institution determines, among other things, that an update would jeopardize the confidentiality of a victim or jeopardize an on-going criminal investigation or the safety of an individual. The institution must make the crime log available for public inspection. 34 C.F.R. § 668.46(f).

PSC failed to maintain an accurate and complete crime log for the review period. After completion of the review, PSC prepared belated crime logs containing most of the required fields for 2005 and 2006. PSC never produced crime logs for 2004 or prior years, however.

In part, the Clery Act is a consumer information requirement intended to provide students, employees, and others with vital information that they can use to make good safety decisions and effectively assist in providing for their own security. The crime log is especially important because it provides a timely information source and supplements the long-view trend data in statistical disclosures. PSC's failure to comply with the daily crime log requirement deprived the campus community of vital security information.

PSC accepted the findings of the Program Review Report and affirmed its commitment to fully comply with the requirement to maintain a daily crime log. PSC's response adequately addresses the required corrective action. The corrective action does not diminish, however, the seriousness of the violation identified and failure to maintain the crime log on a daily basis during the review period. PSC's failure to maintain a daily crime log for 2004, 2005, and 2006 violated the Clery Act and the Department's regulations.

In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R. § 668.92. Pursuant to the Secretary's decision In the Matter of B'nai Arugath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether it is above or below the median funding levels for the Title IV, HEA programs in which it participates. The latest year for which complete funding data is available for PSC is the 2007-08 award year. According to Department records, PSC received approximately \$993,325 in Federal Pell Grant funds; approximately \$7,107,983 in Federal Family Education Loan (FFEL) funds; and approximately \$420,699 in Campus-Based funds. The amount of Title IV, HEA program funds received by or on behalf of students attending PSC is set forth in Enclosure 2 to this letter. The latest information available to the Department indicates that the median funding level in the 2007-08 award year for institutions participating in the Federal Pell Grant program is \$927,672; for institutions participating in the FFEL and/or the Federal Direct Loan program, the median funding level is \$2,384,891; and for institutions participating in the Campus-Based programs, the median funding level is \$268,407. Accordingly, the Department considers PSC a large institution because its overall funding level exceeds the median funding levels.

As detailed in this letter, the Clery Act violations identified at PSC are very serious, numerous and repeated. These failures may have endangered PSC's students and employees who must be able to rely on the accurate reporting of crimes and crime statistics and on disclosures of campus crime policies and statements to take precautions for their safety and security and that of others. Therefore, PSC's failure to comply with the Clery Act amounts to a substantial misrepresentation under 34 C.F.R. § 668.72 and warrants the imposition of a fine as described below.

After considering the gravity of the violations and the size of the institution, I have set the fine amount at \$260,000.

I have assessed \$27,500 for PSC's failure to define its campus correctly. Thus, PSC failed to disclose crime statistics for all locations. This is a serious violation because without access to all statistics, students and employees are unable to make informed decisions about the safety of the campus community.

I have assessed \$27,500 for each of the three years (2004, 2005 and 2006) that PSC failed to properly disclose crime statistics and maintain an adequate system to collect information on reported crimes from all required sources, for a total of \$82,500. If an institution does not correctly classify and accurately report its crime statistics, students and employees are unable to make informed decisions about the safety of the campus community. The failure to properly disclose crime statistics and maintain an adequate reporting system continued over at least a three-year period of time and warrants a fine of \$27,500 for each of the three years.

I have assessed \$10,000 for PSC's lack of administrative capability. As described above, the repeated number of PSC's violations of the Clery Act illustrate its lack of administrative capability and warrant a fine in the amount of \$10,000.

I have assessed \$10,000 for each of the three years (2004, 2005 and 2006) that PSC failed to include within its ASR complete and adequate policy statements, for a total of \$30,000. This is a serious violation because current and prospective students and employees must be able to rely on accurate and complete information about campus crime and the institution's crime procedures and policies. Failure to provide adequate policy statements in its ASR continued over at least a three-year period of time and warrants a fine of \$10,000 for each of the three years.

I have assessed \$27,500 for each of the three years (2004, 2005 and 2006) that PSC failed to distribute the ASR in accordance with federal regulations, for a total of \$82,500. By failing to distribute the ASR, PSC deprived the campus community of important security information. Failure to distribute the ASR continued over at least a three-year period of time and warrants a fine of \$27,500 for each of the three years.

I have assessed \$27,500 for PSC's failure to properly maintain its crime log. PSC's failure to maintain and update its crime log entries resulted in reportable crime statistics not being properly categorized and disclosed in its criminal statistical reports. Again, students and employees are unable to make informed decisions on the safety of the campus community if incorrect statistics are reported or if the information about particular crimes in the crime log does not include their disposition. The crime log, which is to be available to students, employees, the public, and the Department, must be accurate. PSC's failure to properly maintain the crime log is a very serious violation and warrants a \$27,500 fine.

The fine of \$260,000 will be imposed on April 29, 2010, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. PSC may submit both a written request for a hearing and written material indicating why a fine should not be imposed. If PSC chooses to request a hearing or submit written material, you must write to me at:

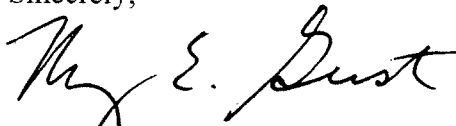
Administrative Actions and Appeals Division
U.S. Department of Education
Federal Student Aid/Program Compliance
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

Upon receipt of a request for hearing, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of PSC's case to a hearing official, who will conduct an independent hearing. PSC is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If PSC does not request a hearing but submits written material instead, I will consider that material and notify PSC of the amount of fine, if any, that will be imposed.

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT PSC SUBMITS MUST BE RECEIVED BY APRIL 29, 2010; OTHERWISE, THE \$260,000 FINE WILL BE EFFECTIVE ON THAT DATE.

If you have any questions or desire any additional explanation of PSC's rights with respect to this action, please contact Bonnie Gibbons of my staff at 202/377-4284.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary E. Gust". The signature is fluid and cursive, with the first name "Mary" and last name "Gust" being clearly legible, and "E." in the middle.

Mary E. Gust, Director
Administrative Actions and Appeals Division

Enclosures